

**AMSEL-LG (27-1a)**

**MEMORANDUM FOR SEE DISTRIBUTION**

**SUBJECT: Requests to DA Personnel for Interviews, Notices of Depositions, Subpoenas, and Other Requests or Orders Related to Judicial or Quasi-Judicial Proceedings**

**1. In accordance with Army Regulation (AR) 27-40, Litigation, present or former Department of the Army (DA) employees shall not disclose official information in response to subpoenas, court orders, notices of deposition, or other requests unless they obtain the written approval of the appropriate Staff Judge Advocate (SJA) or legal adviser.**

**2. All DA employees should be aware of Section 7-2, Policy, of AR 27-40, which outlines the procedure to be followed if an employee receives a request for an appearance or for release of official information related to a judicial or quasi-judicial proceeding. That section provides, in pertinent part, as follows:**

**Referral to deciding official. If present or former DA personnel receive a subpoena, court order, request for attendance at a judicial or quasi-judicial proceeding, or request for an interview related to actual or potential litigation, and it appears the subpoena, order or request seeks disclosures described in (a) above [official information], the individual immediately should advise the appropriate SJA or legal adviser.**

**3. Therefore, any such requests received by personnel within this Command must be immediately forwarded to the SJA or cognizant legal adviser in the CECOM Legal Office. The SJA or cognizant legal adviser (in coordination with DA Litigation Division, if applicable) is empowered as the "deciding official" to make the determination to either grant written approval to disclose the official information requested or challenge the disclosure of the requested information. An employee should avoid direct contact with the originator of such requests and should rely on the CECOM Legal Office to handle the issue. If written approval is granted by the SJA or cognizant legal adviser, an employee must be careful to disclose, release, comment upon, or testify only to those matters specifically addressed in the approval.**

**4. The involvement of present or former DA personnel in private litigation (defined as litigation in which the United States has no interest) is a personal matter between the witness and the requesting party, unless one or**

**more of the following conditions apply:**

- (a) The testimony involves official information.**
- (b) The witness is to testify as an expert.**
- (c) The absence of the witness from duty will interfere seriously with the accomplishment of a military mission.**

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**If one or more of these conditions apply, the SJA should be consulted for further advice and direction.**

**5. The POC for this matter is Kim Melton at Ext. 21146.**

**///Signed///**

**KATHRYN T. H. SZYMANSKI**  
**Chief Counsel**

**DISTRIBUTION:**

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